University of Regina

STRATEGIES TO REDUCE THE OVER-INCARCERATION OF ABORIGINAL PEOPLE IN CANADA: A RESEARCH CONSULTATION

Prairie Justice Research
School of Human Justice
University of Regina
1990

Canadian Catologuing in Publication Data

Main entry under title:

Strategies to reduce the over-incarceration of aboriginal people in Canada : a research consultation

Conference held in Prince Albert, Sask., 1990.
ISBN 0-7731-0184-5

1. Indians of North America - Canada - Criminal justice system - Congresses. 2. Criminal justice, Administration of - Canada - Congresses.
I. University of Regina. Prairie Justice Research.

KE7709.S8 1990 345.71'05'08997 C90-097203-3

This is a publication of Prairie Justice Research at the University of Regina. Prairie Justice Research is partially funded by an operating contract with the federal Ministry of the Solicitor General and has the capacity to conduct socio-legal research for a diverse range of constituencies. For further information contact:

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9. Spence, Bruce. "Over-incarceration of Aboriginal People Examined." ***University of Regina Review***, 7:5, (May 1990) p.6.

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PREFACE

Since 1977 Prairie Justice Research (PJR) has operated under the federal Ministry of the Solicitor General Sustaining Contributions Program for university-based criminological research centres. This Research Consultation on "Strategies to Reduce the Over-Incarceration of Canada's Aboriginal Peoples" was completed as the special research project requirement under PJR's 1989-1990 Contributory Funding Agreement with the Ministry of the Solicitor General. Under previous Agreements, PJR completed several research projects in the area of Aboriginal People and justice issues. The findings of these research endeavours are documented in research publications (see list at end of report).

Two other PJR research activities are directly related to the Research Consultation. One is a forthcoming publication, "Breaking Down the Walls: A Bibliography on the Pursuit of Aboriginal Justice." This bibliographic research project is the result of computerized bibliographic searching undertaken to locate background literature for the Research Consultation. It was decided to organize the citations into a research bibliography on Aboriginal justice literature as a resource for others working in this area. It is anticipated that the bibliography will be published during the fall of 1990.

Another related project is PJR's special project under the Centre's 1990-1991 Contributory Funding Agreement with the Ministry of the Solicitor General. This project is a literature review of alternative Aboriginal justice programs. The findings of the literature review will be literature published in an annotated bibliography and disseminated widely, for example, to police departments, the judiciary, corrections, researchers and non-governmental organizations to encourage research into and further development of alternative Aboriginal justice programs. It is anticipated that this publication will be available early in 1991.

At the Consultation, participants strongly expressed a desire to have future consultations, similar to the one held in Prince Albert. They wanted to continue the discussions about Aboriginal justice research issues begun in Prince Albert and to expand the range of people involved. Initiative for planning the next consultation was taken by participants from Manitoba the Metis Federation and the Native Studies Department at the University of Brandon. Plans are to have the consultation in Manitoba early in 1991.

Further information about any of these projects can be obtained by contacting Prairie Justice Research

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ACKNOWLEDGEMENTS

Planning this Research Consultation was a challenging and enlightening experience for us in Prairie Justice Research and the School of Human Justice. Our decision to adopt a participatory research approach and to consider the themes of Aboriginal self-government and self-determination resulted in an especially productive forum. The outcome of these discussions about research and Aboriginal justice issues are documented in this report.

In the past, we have supported participatory research approaches and engaged in these types of projects. With this Research Consultation, it was the first time we were able to adopt a participatory research approach with financial assistance from the federal government. Thus, we are especially appreciative of the federal Solicitor General Secretariat's support for the objectives of the Consultation.

The Consultation was a success primarily because of the contributions of participants. Their willingness to share their experiences in creating alternative Aboriginal-run programs in their communities and to discuss options for resolving the problem of over-incarceration was conducive to setting a tone for fruitful discussions. In particular, I would like to express our appreciation to those who came from out-of-province. The interaction of participants from Saskatchewan with those from other communities added a vital dimension and stimulating viewpoints to the discussions.

Organizing this Consultation was a collegial effort within Prairie Justice Research. Research Associates Erich Schellhammer, Ron Schriml and Yussuf Kly worked towards planning a Consultation which would bring together a mix of people to consider a long-standing problem, intolerable incarceration levels of Aboriginal People, from some new perspectives - Aboriginal self-determination and self-government. Ron Schriml and Colleen Hamilton deserve a special note for their efforts in co-ordinating arrangements for the Consultation in Prince Albert in spite of difficulties encountered with facilities and services. Bruce Spence played a vital role in promoting the Consultation and assisting with background research activities. A special note is needed for the contribution of Carmen Dawson who provided excellent secretarial support to the project under time pressures and a demanding workload. Ruth Thomas' work in typing drafts of this report is also appreciated. Final typing of this manuscript was completed by Linda Bradley, whose secretarial skills

added to the quality of this report. Mary Gianoli's role in co-ordinating the project also contributed to the overall success of the Consultation.

It is our genuine hope that others will be able to employ the research themes recorded in this report and work towards achieving social justice for Canadian Aboriginal People.

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INTRODUCTION

1. INTRODUCTION

Prairie Justice Research (PJR) sponsored a "Research Consultation on Strategies to Reduce the Over-Incarceration of Aboriginal People in Canada" as a special project under the Centre's 1989-1990 Sustaining Contributions Program Agreement with the federal Ministry of the Solicitor General. The purpose of the Consultation was to provide a forum for researchers from across Canada to discuss their research findings on Aboriginal Peoples and justice issues and to identify future research directions on this theme. An important objective of the Consultation was to challenge participants to consider a long-standing and well-documented problem of the over-incarceration of Canada's Aboriginal Peoples from emerging perspectives of Aboriginal self-determination and self-government, and in the light of the recent judicial inquiries in Manitoba, Nova Scotia and Alberta.

Several factors prompted PJR to follow this line of examination. The most recent inmate population figures released by the various federal and provincial justice and corrections departments indicate that Aboriginal People form a disproportionate percentage of total correctional facility inmate populations. The term "disproportionate" is an appropriate one.

Even though only 2.85 percent[1] of the total Canadian population are Aboriginal People, in terms of correctional facility inmate populations they comprise a much higher percentage. For example, in federal correctional facilities for male inmates located in the prairie region, Aboriginal men comprise 34 percent[2] of the total inmate population. In Saskatchewan correctional facilities for men, Aboriginal inmates comprise 64 percent[3] of the total. Aboriginal women in Saskatchewan's provincial corrections system comprise 85 percent[4] of the total inmate population. According to the Saskatchewan Social Services Annual Report for 1989, there were 297 young offenders in open custody, secure custody or in remand.[5] Saskatchewan Social Services has not broken down that total according to Aboriginal ancestry but the John Howard Society of

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1. Canada, Statistics Canada. ***Aboriginal Peoples Output Program: Databook on Canada's Aboriginal Population from 1986 Census of Canada.*** (Number S47008) Statistics Canada, March 1989, p.1.
2. Canada, Correctional Services of Canada, Management Information Services Branch. ***Native Population Profile Report.*** Ottawa, ON, March 1990.
3. Saskatchewan, Correctional Centre Information System, Annual Publication (1989-1990), pp.6, 15, 33.
4. Ibid.
5. Saskatchewan, Department of Social Services. ***1988-1989 Annual Report.*** pp.12-13.

Saskatchewan estimates that 70 percent of youth in custody are Indian or Metis.[6] Mr. Chris McKenzie, an official with the Young Offenders Program Division of Saskatchewan Social Services says his department agrees that this figure accurately reflects the number of Aboriginal youth in custody.[7] The grim interpretation of these figures is inescapable. Aboriginal people are grotesquely over-represented in jails, especially in the prairies, and especially in Saskatchewan. In many correctional facilities, the Aboriginal People who form the minority outside the prison walls form the majority on the inside.

Canada's criminal justice system and its relationship with Aboriginal People has also been called into question by the "Royal Commission into the Donald Marshall Junior Prosecution" which took place recently in Nova Scotia, and by the "Public Inquiry Into The Administration of Justice And Aboriginal People" held recently in Manitoba and is expected to release its final report in the fall of 1990. These inquiries were characterized by high visibility cases that involved racial discrimination within the criminal justice system. They were well documented and publicized through the public hearing process and through the media.

The forthcoming "Task Force On The Criminal Justice System And Its Impact On The Indian And Metis People Of Alberta" and the Justice Inquiry previously held on the Blood Reserve, also in Alberta, compel the people of Canada to ask serious questions about their relations with the Aboriginal communities. Why are so many Aboriginal people gaoled? Why have complaints of injustice emanating from Aboriginal communities prompted such high profile inquiries? Is something amiss in the Aboriginal communities or in the Canadian community?

Clearly, incarceration levels as well as systemic racial discrimination in other components of the justice system are issues that require research and inter-community consultation with the aim of defining concrete solutions. Attempting to explain the preeminence of Aboriginal People in the justice system as the result of inherent criminality within that community may sound logical, but such an explanation is an insufficient one.

A third interrelated issue that prompted PJR to sponsor the Research Consultation is the question of Aboriginal self-government and self-determination. In 1982, self-government for Canadian Aboriginal

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6. John Howard Society of Saskatchewan. ***Newsletter***. Summer 1990, p.1.
7. Phone interview with Saskatchewan Social Services Official (August 1, 1990).

Peoples was propelled directly into the public eye by the late inclusion in Canada's repatriated constitution of "existing" Aboriginal rights. A series of four constitutional conferences aimed at defining the exact nature of those rights was also included in the constitutional negotiations at the time. The leaders of the Inuit, Indian and Metis communities and the federal and provincial governments participated in that historic series of First Ministers' Conferences which ended in March of 1987.

During that series self-determination and self-government emerged as the main agenda items but ultimately, these conferences failed to find explicit forms of Aboriginal rights that were acceptable to a majority of the non-Aboriginal governments. However, the concept of Aboriginal self-government/self-determination did find a permanent niche in the political vocabulary of Canadians. Many Canadians remain familiar with the terminology and its implications today.

More recently, Quebec's relationship with Canada through the Meech Lake Accord has brought the Aboriginal rights question to the forefront, at least as far as the federal and provincial governments are concerned. Meanwhile, the Aboriginal groups have kept working toward self-determination and self-government with the view that such rights should also be included in any constitutional agreement such as the Accord.

The potentially volatile issues of self-determination and self-government, the high incarceration levels and systemic discrimination within the criminal justice systems motivated PJR to ask some of the people directly involved in these issues about the nature of their research work and how they felt these issues are connected, with special attention to be paid to suggestions for solutions and or alternatives to existing programs.

The Research Consultation was held in Prince Albert, Saskatchewan, the home of a large and visible urban Aboriginal population and the site of five correctional facilities holding significant Aboriginal inmate populations.

PJR contacted approximately 100 potential participants with the view of attracting one quarter of that number. Approximately 30 individuals attended the Consultation. Most were from the western provinces and represented a cross-section of Metis and Indian groups, federal government departments and university communities. A sizable portion of the participants hailed directly from Prince Albert's Aboriginal

community. Legal aid lawyers, Aboriginal police officers, a Saskatchewan Court of Queen's Bench Judge and a law student articling with and reporting to the Chief Justice of Saskatchewan were in attendance as well. A complete list of participants and their affiliations is in section 3 of this report.

PJR put a considerable amount of effort into attracting members of the judiciary who were involved in the recent public inquiries into Aboriginal people and the criminal justice system. Chief Justice Alexander T. Hickman of Newfoundland, who was in charge of the Donald Marshall Jr. Royal Commission, was invited to the research consultation but was unable to attend. Invitations were also sent to Associate Chief Justice A.C. Hamilton of the Manitoba Court of Queen's Bench (Family Division), and Associate Chief Judge Murray Sinclair of the Manitoba Provincial Court who co-chaired the Aboriginal justice inquiry in that province. The Honourable Mr. Justice R.A. Cawsey who is chairman of the Alberta Task Force was also invited to come to Prince Albert. These members of the judiciary also sent their regrets but not before expressing strong desires to participate and not before postponing their decisions to the last possible moment. Time constraints and heavy workloads related to their respective inquiries were the obstacles affecting their attendance.

Invitations were also sent to prominent researchers such as Scott Clarke, who wrote a research report on the Mi'Kmaq and criminal justice system in Nova Scotia[8] that dealt specifically with Aboriginal issues, and to Professor Michael Jackson, whose report for the Canadian Bar Association[9] was a thorough assessment of the entire Canadian justice system as it relates to Aboriginal People in all parts of the country. Jackson recommends the establishment of a parallel justice system operated for and by aboriginal people. Unfortunately, neither were able to attend.

National, international and regionally based organizations representing Inuit, Indian and Metis people, representatives of various federal and provincial government departments and researchers from Native Studies departments of other Canadian universities were contacted as well but not all were able to attend. For a complete list of persons invited to the Consultation, refer to Appendix 10.

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8. Canada, Nova Scotia, The Royal Commission on the Donald Marshall, Jr. Prosecution. ***The Mi'Kmaq and Criminal Justice in Nova Scotia: A Research Study, Vol. 3***, by Scott Clark. Halifax: The Royal Commission on the Donald Marshall Jr. Prosecution, 1989.
9. Jackson, Michael. ***Locking Up Indians in Canada: A Report of the Canadian Bar Association.*** Vancouver: Canadian Bar Association, 1988.

The Research Consultation was designed to provide opportunities for small group discussions and for full interaction among participants. The format consisted of opening remarks by PJR staff, pipe ceremonies conducted by Cree elders at the beginning of each day, brief presentations by all participants that outlined the nature of their involvement with justice inquiries or corrections programs, a public forum on alternatives to incarceration and a final strategy session that identified specific research topics related to self-government, self-determination and ways to reduce the incarceration of Aboriginal people (see section 4 for further detail about the Consultation agenda). The remainder of the report provides further information about the two and one-half day Research Consultation and reports on research themes identified by participants.

A COMMENTARY ON:

RESEARCH ABOUT CANADA'S

ABORIGINAL PEOPLES AND

THE CRIMINAL JUSTICE SYSTEM

2. A COMMENTARY ON: Research about Canada's Aboriginal Peoples and the Criminal Justice System

Disproportionate Incarceration

There have been numerous studies documenting the disproportionate number of Aboriginal persons incarcerated in Canada. The results of this research are perhaps best summarized by professor Michael Jackson in the Canadian Bar Association's report on Aboriginal Peoples and the criminal justice system.

> **Statistics about crime are often not well understood by the public and are subject to variable interpretations by the experts. In the case of the statistics regarding the impact of the criminal justice system on Native People, the figures are so stark and appalling that the magnitude of the problem can be neither misunderstood or interpreted away.**[1]

Statistics from the past twenty years revealing the over-involvement of Aboriginal Peoples in the Canadian criminal justice system are, very simply, unquestionable.

Prairie Justice Research, under the auspices of the federal Ministry of the Solicitor General funding, completed several research projects on the problems of Aboriginal Peoples and the criminal justice system.[2] There have been numerous other research efforts by governments, university researchers and Aboriginal organizations to study and recommend solutions to the serious problem of the disproportionate number of Aboriginal persons incarcerated in Canadian prisons. These research efforts have not resulted in any significant changes.

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1. Jackson, Michael. ***Locking Up Indians in Canada: A Report of the Canadian Bar Association.*** Vancouver: Canadian Bar Association, 1988, p.2.

2. Havemann, Paul; Couse, Keith; Foster, Lori and Matonovich, Rae. ***Law and Order for Canada's Indigenous Peoples: A Review of Recent Research Literature Relating to the Operation of the Criminal Justice System and Canada's Indigenous Peoples***. Regina, SK: Prairie Justice Research, University of Regina, 1985; Havemann, Paul. ***The Regina Native Legal Counsel Project: A Legal Service for Native Organizations, Groups and Societies in the City of Regina***. Regina, SK: Prairie Justice Research, University of Regina, 1983; Harding, Jim and Matonovich, Rae. ***Self-Study of Justice Research About Indigenous People (1981-1984); A Special Report to the Federal Ministry of the Solicitor General***. Regina, SK: Prairie Justice Research, University of Regina, 1985; Hylton, John. ***A Directory of Justice Services for Persons of Indian Ancestry in Manitoba, Saskatchewan and Alberta***. Regina, SK: Prairie Justice Research, University of Regina, 1980; "Natives and Justice: A Topic Requiring Research Priority?" in ***Explorations in Prairie Justice Research***, ed. Dorthy Hepworth. Regina, SK: Canadian Plains Research Centre, University of Regina, 1979.

Defining Research Assumptions

Information alone is insufficient to bring about change in discriminatory policy, practice and conditions. Achieving justice for Aboriginal Peoples depends upon more than "counting" the problem. Requests for critical research about Aboriginal Peoples and justice issues have been made for the last decade. A former Research Associate with Prairie Justice Research, for example, noted in 1980 the need for a critical research perspective.

> **The challenge for human service educators and researchers is to assist in the critical analysis of these research assumptions and thereby prepare human service professionals to undo much of the damage that we in the human services have assisted in perpetuating on the Indian Peoples in the past.[3]**

Understanding the limitations of past research on Aboriginal Peoples and the criminal justice system is an important facet of developing critical research perspectives on this problem.

A Prairie Justice Research publication, ***Law and Order for Canada's Indigenous Peoples***, critically reviewed Canadian research on Aboriginal Peoples and the criminal justice system up to the mid-1980s. The authors in a summary comment stated that:

> **...much of the available research literature is unsatisfactory in a general sense because it looks at the interface between the Indigenous offender and criminal justice system in terms of the individual and/or group characteristics of these offenders and not in terms of the criminal justice processes themselves.[4]**

This research approach which can by implication blame the victim is problematic in the area of Aboriginal Peoples and justice issues. It is possible that such research activities could become part of the socio-political problems of Aboriginal persons rather than part of any solutions.

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3. Hylton, John. "Locking Up Indians in Saskatchewan: Some Implications for Human Service Education and Programming." Paper presented at the Annual Conference of the CASSW in Montreal, June 2-5, p.20.

4. Havemann, Paul; Couse, Keith; Foster Lori and Matonovich, Rae. ***Law and Order for Canada's Indigenous Peoples: A Review of Recent Research Literature Relating to the Operation of the Criminal Justice System and Canada's Indigenous Peoples.*** Regina, SK: Prairie Justice Research, University of Regina, 1985, p.xix.

A Need for Participatory Research

Research can be political in other ways as well. Brody expressed this very well in a book published in the early 1980s.

> **When social scientific work is undertaken at least in part to convey another people's sense of their needs, the problems are as much political as they are methodological. Those who wish, or are obliged, to state their interests and even negotiate their futures must have data, and must therefore allow some kind of research; and those who carry out such research necessarily enter into a very distinctive kind of relationship with the people whose interests they are expected to serve. The research itself is part of a set of processes that, on one hand, may substantially determine the findings, yet, on the other hand, may go so far beyond them.**[5]

Researchers associated with our organization have also referred to this issue.

> **...little research has been conducted by Indigenous Peoples or commissioned for Indigenous Peoples. Hence one can suggest little of it is conceived in terms of the questions they might ask or the objects of research they might choose.**[6]

At Prairie Justice Research, as surely with other research institutes, we are continuing to struggle with this dilemma.

There is some benefit in accumulating more information on the involvement of Aboriginal Peoples in the criminal justice system. However, unless this research includes Aboriginal Peoples it will likely reflect the paradigm of dominance and colonialization that historically is fundamental to the criminal justice system. It will perpetuate the oppression inherent in the current relationship of the criminal justice system and Aboriginal Peoples. Because of its close association with the criminal justice system, criminological research has historical biases which are especially problematic concerning Aboriginal Peoples.

Another characteristic of research on the criminal justice system is the preoccupation with symptoms and consequences, rather than investigating the cause of the problem or contributing factors. This again is true of research on Aboriginal Peoples and the criminal justice system. It only further disempowers Aboriginal peoples and provides few insights or strategies to reduce the disproportionate numbers of Aboriginal persons incarcerated.

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5. Brody, Hugh. ***Maps and Dreams.*** Markham, ON: Penguin Books, 1981, p.xiv.
6. Couse, Keith; Geller, Gloria; Harding, Jim; Matonovich, Rae and Schriml, Ron. ***The False Promises of Criminology and the Promise of Justice.*** Regina, SK: Prairie Justice Research, University of Regina, 1983.

Exploring Alternative Research Directions

In recent years there have been some new suggestions for understanding the problems faced by Aboriginal Peoples in relation to the criminal justice system. Two concepts proposed as ways of defining research are those of self-determination and self-government. It is likely that the historical lack of self-determination for Aboriginal Peoples has contributed to their over-representation in the criminal justice system. Self-government as a means for Aboriginal Peoples to gain control over their lives is still evolving in Canada, and the ways it could lead to changes in the criminal justice system still needs to be explored.

More recently, lawyers and provincial governments have used public judicial inquiries as a means of understanding systemic discrimination faced by Aboriginal persons within the criminal justice system and as a means to find solutions to the problems. The Nova Scotia Royal Commission on the Donald Marshall Jr. Prosecution and a report commissioned by the Canadian Bar Association discuss the possibility of a parallel justice system for Aboriginal Peoples.

The concepts of Aboriginal self-determination and self-government, as well as proposals for Aboriginal involvement in the Canadian criminal justice system were some of the major topics identified for discussion at the Research Consultation.

CONSULTATION PARTICIPANTS

3. CONSULTATION PARTICIPANTS

Claudia Agecoutey
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Faye Ahdemar
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Lawrence Barkwell
Research Consultant
Manitoba Metis Federation

Stephen Carter
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Rose Charlie
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Indian Homemakers' Association of British Columbia
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David Chartrand
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Manitoba Metis Federation

Samuel Corrigan
Professor
Native Studies Dept., Brandon University
Manitoba

Judy Daniels
Researcher
Metis Association of Alberta

Lynn Daniels
Native and Female Offenders Programs,
Corrections Canada,
Saskatoon, SK

The Honourable Mr. Justice Peter Dielschneider
Saskatchewan Court of Queen's Bench
Humbolt, SK

Warren Fontaine
Deputy Police Chief
Dakota-Ojibway Tribal Council Police
Manitoba

Mary Gianoli
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David Gray
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Elder
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Jacob Pete
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ISKWEW, Women Helping Women
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Saskatoon, SK

CONSULTATION AGENDA

4. CONSULTATION AGENDA

STRATEGIES TO REDUCE THE OVER-INCARCERATION OF ABORIGINAL PEOPLE in CANADA: A RESEARCH CONSULTATION

AGENDA

March 29, 30, 31 1990

NOTE: The Research Consultation is sponsored by ***Prairie Justice Research*** under its Sustaining Contributions Progam with the Ministry of the Solicitor General

PRAIRIE JUSTICE RESEARCH
School of Human Justice
University of Regina

AGENDA

THURSDAY MARCH 29, 1990

- Registration and Reception 5:00 - 7:00 p.m.
  Carter Room, Marlboro Hotel

- Dinner and Cash Bar 7:00 p.m.
  Cavalier Room, Marlboro Hotel

- Speakers (Bruce Spence and Jim Harding)
  "The Evolution of Research"

FRIDAY MARCH 30, 1990

*** Morning and Afternoon sessions will be held in the Main Board Room of the MacIntosh Mall (800 Central Avenue)

- Assembly 8:30 - 9:00 a.m.

- Pipe Ceremony 9:00 - 9:30 a.m.

- Consultation Process and Agenda 9:30 a.m.

MORNING SESSION:

"ABORIGINAL SELF-DETERMINATION AND SELF-GOVERNMENT: ANY IMPLICATIONS FOR CRIMINAL JUSTICE REFORM?"

- Opening Remarks 9:45 - 10:30 a.m.
  (Clem Chartier, Rose Charlie, David Chartrand, Adelle Ratt)

- Coffee Break 10:30 - 10:45 a.m

- Group Discussion 10:45 - 12:00 noon

LUNCH 12:00 - 1:30 p.m.

(Participants' choice of restaurant)

AFTERNOON SESSION:

"JUDICIAL INQUIRIES: ANY IMPLICATIONS FOR SELF-DETERMINATION AND SELF-GOVERNMENT?"

- Opening Remarks 1:30 - 2:15 p.m.
  (David Gray, Lawrence Barkwell, Judy Daniels)
- Coffee Break 2:15 - 2:30 p.m.
- Group Discussion 2:30 - 4:30 p.m.
- Review of Friday's discussions and agenda for Saturday 4:30 - 5:00 p.m.

EVENING SESSION:

"ALTERNATIVE ABORIGINAL JUSTICE PROGRAMS"

- **PUBLIC FORUM - at the John M. Cuelenaere Library. Consultation participants (Martha Spence, Frank McKay, Warren Fontaine, Len Sawatsky, Allison Kitchekeesic) will conduct a panel discussion followed by a question and answer period. 7:00 - 9:00 p.m.**

SATURDAY MARCH 31, 1990

*** Morning and Afternoon sesions will be held in the Marlboro Hotel (Cavalier Room)

- Coffee 8:30 - 9:00 a.m.
- Pipe Ceremony 9:00 - 9:30 a.m.

MORNING SESSION:

"ABORIGINAL PROGRAMS - ALTERNATIVE DIRECTIONS?"

- Presentations - Justice Programs 9:30 - 10:30 a.m.
  (Lynn Daniels, Stephen Carter, Morris Morton, Honourable Mr. Justice Peter Dielschneider, Claudia Agecoutey, Jacob Pete)
- Coffee Break 10:30-10:45 a.m.
- Presentations: Child Welfare-Education Programs 10:45-12:00 pm
  (Faye Ahdemar, Yvonne House, Harvey Stalwick, Ernie Sauve, Ruth Thompson, Samuel Corrigan)

LUNCH 12:00 - 1:30 p.m.

(Participant's choice of restaurant)

AFTERNOON SESSION:

"STRATEGY SESSION"

- A group discussion to identify stategies to reduce the particpation of Aboriginal People in the Canadian Criminal Justice system. What are the implications for research and the formation of justice policy? 1:30 - 3:00 p.m.

CONCLUSION:

The end of the Consultation, opportunity to meet with interest groups or the media.

SUMMARY OF RESEARCH THEMES

5. SUMMARY OF RESEARCH THEMES

The Consultation's "strategy session" was held between 3:30 and 5:30 Saturday afternoon. It took the form of a round-table discussion where participants identified research areas where they felt there was sufficient potential to develop strategies that would lead to the substantial reduction of the incarceration of Aboriginal People in Canada.

Most participants emphasized the creation of community-based criminal justice alternatives and stressed a need for the creation of legal and political changes complementary to the goals of Aboriginal self-determination. A number of these suggestions dealt specifically with far-reaching constitutional changes that would provide a stronger basis for Aboriginal self-determination and self-government in Canada. Others dealt with reforming the status quo, including the enhancement of opportunities for Aboriginal People within the court system, and with shifting control of the decision making process and delivery of services from the dominant system into the hands of Aboriginal governments and organizations. There was general agreement that an on-going consultation process be established that would consist of a mechanism for considering how research activities could inform and support a concerted Aboriginal incarceration reduction strategy.

Time constraints made it difficult to reach total agreement on all potential research directions and perspectives but it is fair to say that all participants expressed support for community-based approaches to research and for research which explored the emerging alternative programs created from within the Aboriginal communities. These were perceived as a vital starting points. It should be noted that although self-government and self-determination were considered very important, most participants felt the need for research on institutions and programs of the dominant criminal justice system and of the trend toward urbanization among prairie Aboriginal communities, should not be underestimated.

Keeping this in mind, we have listed all concerns raised during the strategy session in terms of research problems or directions and grouped them according to some common themes identified by the participants. We did not prepare a verbatim account of what was said in the strategy session, rather, each contribution was paraphrased and an effort made to have all concerns documented as accurately as possible. We also made no attempts to translate these concerns into theoretical and research terminology, though it was clear from the discussion that varying perspectives were in existence among the Aboriginal and non-

Aboriginal participants. In future consultations and as new research proceeds, it may be possible to reach more of a sense of closure about research needed to reduce the incarceration of Aboriginal Peoples.

1. TAKING CONTROL/INTERVENTION

1.1 Aboriginal Programs

The need for research in the following areas was raised:

- Examples/ways Aboriginal communities have taken direct control of programs leading to decarceration
- The impact of Aboriginal court worker programs, such as the abolition of the Saskatchewan Native Court Workers Program compared to the continuation of the Manitoba Court Communicator Program
- The effectiveness of reserve-based policing programs. Do such programs reinforce or counteract the demographic shift of Aboriginal People to urban areas?
- Comparison of customary Aboriginal law with common law
- On the victims of Aboriginal offenders to help design community based incarceration alternatives (such as mediation)

1.2 Child Welfare/Youth Support

The need for research in the following areas was raised:

- The actual or potential role of the Aboriginal family in creating and implementing alternatives to incarceration
- Ways that community level opportunities and traditional forms of support can be created for Aboriginal youth
- How the child welfare practices of the dominant system have contributed to crime and incarceration levels among Aboriginal People

1.3 Education

The need for research in the following areas was raised:

- Whether/how the education systems with higher Aboriginal drop-out rates contribute to high crime and incarceration rates
- Ways that positive educational experiences can enhance self-determination among Aboriginal People
- Ways the dominant educational system has undermined the self-esteem of Aboriginal People

1.4 Human Services

The need for research in the following areas was raised:

- Exploring short-term incarceration alternatives (in conjunction with the dominant CJS) while the work toward parallel justice and self-government systems continues
- Determining the location and other specifics about Aboriginal crime to help determine the relationship between substandard socio-economic conditions such as health, housing, employment, education, and Aboriginal crime
- Whether a more holistic approach to human services, without the trappings of professional or institutional approaches, is emerging with Aboriginal self-government

1.5 Urbanization

The need for research in the following areas was raised:

- What are the needs of Aboriginal families who are into a second or third generation in an urban setting
- Whether/how urban based community policing can be created in such a way that it complements Aboriginal self-government
- The implications of the urbanization trend among the growing Aboriginal youth population on the approaches to self-government and an Aboriginal justice system

2. IMPEDIMENTS TO ABORIGINAL JUSTICE

2.1 Systemic Discrimination

The need for research in the following areas was raised:

- Explore Aboriginal offenders as being throughout history, casualties of the imposition of an alien and colonial system
- The extent of Aboriginal People's awareness of institutional racism
- If necessary, ways to raise Aboriginal People's conciousness of institutionalized racism
- Whether/how different perspectives and concepts on the origins of racism can better facilitate change and improvements for Aboriginal People
- How many Aboriginal People are employed by native studies programs and similar Aboriginal programs across Canada

- The extent of ethnocentrism existing/remaining in the research being done on Aboriginal People.

- Systemic biases and limitations of Aboriginal offender statistics collected by government departments

2.2 Criminal Justice Economics

The need for research in the following areas was raised:

- The criminal justice system as an industry that depends on high Aboriginal incarceration levels

- Cost effectiveness of alternative Aboriginal programs as compared to dominant criminal justice system programs

3. POLITICAL-LEGAL CHANGE

3.1 Public Inquiries

The need for research in the following areas was raised:

- The Saskatchewan criminal justice system and its relationship with Aboriginal Peoples should be subjected to scrutiny, possibly through a public inquiry mechanism

- Whether/how public inquiries on Aboriginal People and the justice system may encourage a backlash from the non-Aboriginal public or lead to their further denial that systemic discrimination exists

- Whether/how the mandate and process of past public inquiries on Aboriginal People and the justice system had strengthened the case for Aboriginal self-government

3.2 Parallel Justice Systems

The need for research in the following areas was raised:

- The implications and limitations of parallel justice systems being superimposed on Aboriginal People by the dominant system

- Whether/how parallel justice systems facilitate or undercut moves toward Aboriginal self-government

- Whether/how there were ways in which a parallel justice system might actually perpetuate problems for Aboriginal People

3.3 Constitutional Reform

The need for research in the following areas was raised:

- Whether/how tripartite criminal justice agreements gives Aboriginal People secondary or lower status to provincial or the federal governments
- On the potential for constitutional and legal changes for supporting Aboriginal justice systems

3.4 Self-Government

The need for research in the following areas was raised:

- Why some Aboriginal governments (e.g. in Saskatchewan) have not made Aboriginal justice as much a priority as Aboriginal governments in other regions
- To see if/how enhanced self-government and self-determination in Aboriginal communities reduce the need for law enforcement activities
- Ways to implement Aboriginal self-government through alternatives to incarceration
- Whether/how compensation for past wrong-doings to Aboriginal People on the part of the dominant system can complement moves toward self-government

3.5 Social Change

The need for research in the following areas was raised:

- The sources of institutional resistance to the creation of community-based Aboriginal justice alternatives
- Whether/how moves for Aboriginal self-government complement/ encourage or contradict/discourage broader and deeper cultural changes in the dominant society
- The implications of the dismantling of Canadian federalism (e.g., through the Meech Lake Accord or Free Trade) for Aboriginal self-government and alternatives to incarceration
- Whether any underlying convergences exist between dominant society movements, such as the ecology or peace movements, and movements within Aboriginal societies toward self-determination or parallel justice systems

4. ABORIGINAL CULTURE

Participants expressed the view that certain sacred aspects of Aboriginal culture cannot and should not be researched.

The need for research in the following areas was raised:

- Whether/how the subordination of Aboriginal heritage contributes to high incarceration rates
- Ways Aboriginal People have resisted attempts to undercut their culture
- Ways colonization and the dominant culture and institutions have distorted Aboriginal culture, through Bill C-31 for example
- The common cultural ground which may exist among different Aboriginal Peoples or cultures
- What the cultural basis might be for an Aboriginal justice system
- Whether/how programs that encourage cultural and personal healing can be used to combat high recidivism among Aboriginal offenders
- Whether/how popular education can contribute to the restoration and rejuvenation of Aboriginal cultural practices
- Whether/how "culturally neutral" programs can be successful in reducing the incarceration rates of Aboriginal People
- The distinctive characteristics of Aboriginal communities as a foundation for culturally-based justice and self-government alternatives

5. CONSIDERATIONS ABOUT RESEARCH

- Research should be seen as a service to Aboriginal groups/communities
- Research should be characterised by participatory methods
- Research should not be intrusive, exploitive or derogate from the spiritual nature of Aboriginal cultures
- Research should be characterized by deep and broad critical analysis
- Research for maintaining, reforming and changing should be all included
- Aboriginal culture should be defined as rigorously and as democratically as possible

APPENDICES

Appendix 1

Aboriginal Women's Council of Saskatchewan

"Press Release on the Suicide of Marie Helen Custer"

ABORIGINAL WOMEN'S COUNCIL OF SASKATCHEWAN INC.

62 - 17 Street West
PRINCE ALBERT, Saskatchewan S6V 2S7
Telephone: 763-6005

PRESS RELEASE

March 13, 1990

Marie Helen Custer is dead. She died by hanging at Kingston Penitentiary on Monday, February 26, 1990. She had first attempted to hang herself on February 22, 1990. Marie was a young Cree woman from Pelican Narrows and Sturgeon Lake Reserve in Saskatchewan. Marie was twenty-seven (27) years old and to be released in June of this year. Marie and her three siblings were apprehended at an early age and placed in a non-native foster home. They were made permanent wards of the government of Saskatchewan. According to Marie's father, during those six years, the children went through extreme mental and physical stress. As a result, two children have committed suicide; one is presently in a correctional centre and a fourth child suffers from solvent abuse.

When Marie was in her late teens, she got into trouble with the law and ended up in prison off and on in Edmonton and later in Kingston. I met Marie in the Kingston Penitentiary last June. At that time, she seemed in reasonably good shape. However, after her best friend's death by hanging in October of last year, herself, another young Saskatchewan Indian woman, things went downhill for Marie. The last time Elder, Joan LaVallee visited Marie, she had trouble speaking to Joan, apparently because of drugs she was receiving for depression in prison. Marie's is the third death of young Saskatchewan Indian woman in less than a year, either within the walls or shortly after release. In the early part of last year, Patty B. was found hanging from a tree in a Kingston park shortly after her release. This fall, Sandra S., another Saskatchewan

woman killed herself by hanging.

Marie's unfortunate death spells out a couple of issues. One is the care young Indian kids receive when they come into foster care. The other issue is what is happening at Kingston Prison for Women which is causing so many young Indian women to despair to the point of suicide.

Since Marie had attempted suicide on the Thursday before her successful attempt on the following Monday, why was she not more closely guarded or supervised. How was it she was able to lock herself in the basement of the visiting unit during her father's visit and kill herself.

Other questions that must be asked are why was this young woman not paroled or considered for parole. Why was Marie serving her sentence thousands of miles away from her natural family and support system. And why is prisoner depression dealt with through the use of prescription drugs.

ABORIGINAL WOMEN'S COUNCIL OF SASKATCHEWAN INC.

62 - 17 Street West
PRINCE ALBERT, Saskatchewan S6V 2S7
Telephone: 763-6005

RECOMMENDATIONS

1) Immediate placement of full time Indian elders on staff at Kingston with full chaplaincy rights.

2) Immediate and daily monitoring of prison conditions by an independent group which includes inmate committee and which has sanction of the National Caucus for Aboriginal Women.

3) Establishment of small regional correctional homes in the provinces; more half-way homes run by native groups.

4) Eventual closure of Kingston Penitentiary.

5) Evaluation of existing inquiries.

6) Establisment of local committees to review prisoners transfer from province to federal institution.

7) Legislative changes to reflect needs of prisoners and aforementioned requests.

Appendix 2

Manitoba Metis Federation

"The Justice System and Self-Government Struggles"

Manitoba

MAY 1 8 1990

Justice

Community and Youth
Corrections
North District Probation

77A Redwood Avenue
Winnipeg, Manitoba, CANADA
R2W 5J5

(204) 945-7183

15 May 1990

Jim Harding
Director
Prairie Justice Research
University of Regina
Regina, Saskatchewan
S4S OA2

Dear Jim:

Thank you for the outline of notes and research themes you recently forwarded.

I have attached copies of the speaking notes used by David Chartrand and myself. Mr. Gray spoke without notes.

Sincerely,

L. Barkwell

L. Barkwell
Area Director.

LB/kc.111

MANITOBA METIS FEDERATION
THE JUSTICE SYSTEM AND SELF GOVERNMENT STRUGGLES
David N. Chartrand
Prince Albert, Sask.
March 30, 1990

I would first like to bring greetings from our president, Mr. Yvon Dumont, and Board members of MMF.

There has been much discussion about the nature of self-determination. Some go so far as to suggest that the issue is no longer relevant. It is our position that a settlement of the issues of self-determination and self-government are fundamental to the solution of the current problem of the ongoing incarceration of our aboriginal people.

We must not, however, forget that aboriginal people are also over represented as victims and witnesses. We do the issue much disservice if we allow it to be offender driven.

The right to self-determination is inherently ours. As with the Indian and Inuit peoples, the agreements we reached did not provide that we would accept to giving up the right to our self-determination.

The irony is that now white first ministers have rejected proposals for aboriginal self-determination because they won't understand it.

Surely it is clear enough that we want control of those institutions and activities that directly affect our daily lives: ie., education, economics, child welfare, and justice to name a few.

A second irony is that we as Metis people must perpetually defend ourselves

from the ignorance of others, who suggest we are not a nation. I want to agree with Jim Harding, that Canada is a multi-national state, with one of those nations being Metis.

Anyone who doubts Metis Nationhood should look to history. Cuthbert Grant, on behalf of the New Nation entered into treaties with the Hudson's Bay Company and various Indian Nations.

Louis Riel, the Metis Father of Confederation, stopped interloping by Canada on Metis soil and negotiated a treaty with Canada. Bruce Spence alluded to this last night.

The Manitoba Act provides specifically for the aboriginal title of Metis people in Manitoba. This at a minimum was the finding of the Supreme Court of Canada on March 2, 1990.

I also remind those present that it took extensive effort on behalf of Metis people to be included as an "Aboriginal People" in Sec. 35 (2) of the Constitution Act. The only basis of that inclusion is the nationhood of Metis people.

One of the greatest pieces of evidence that the Metis considered themselves a people took place less than 50 miles from here (at Batoche). Certainly, it is our contention that only a nation can define itself. If Batoche does not stand as a clear declaration of nationhood. What does?

Mr. Barkwell and Mr. Gray will undoubtedly deal with some of the problems we encounter and some of the solutions, as technical answers, we suggest however, we must not lose sight of the fact that these are political questions, that require political solutions. To that end we have begun to negotiate with government on several levels. We negotiate with them on the level of a

broad political statement. It is important to us that the government of Canada and the Provinces accept our right to self-determination. This we feel must be entrenched in the Constitution. Without such entrenchment we will continue to be at the whim of the dominant society.

Secondly, we are trying to negotiate sectoral transfer of authority. This transfer of authority means that issues relating to our people will be resolved by us. I will speak of some of our specific efforts shortly.

Lastly, we continue to negotiate for current programs to ensure the modest gains of the last few years are not lost while we continue to negotiate for self-determination and self-government.

It is in this area that sort term gain can be made. In Manitoba we hope to achieve a degree of control over child care, education and justice even without wholesale changes to the system. This we believe will effect positive changes simply because our people relate more easily to their oun, than to outsiders.

Some may suggest that without the power to make a program "culturally appropriate" it is useless. We do not feel this. We feel that control of delivery, by people living in contemporary Metis culture, inherently creates cultural appropriateness. Certainly the evaluation and correction of the problem is easier if we control the delivery.

I want to also add our support to the proposition that control of the justice system, or any system, will not automatically cure all of the problems that we face. A concerted effort on all fronts is needed. For this reason a multi-sectoral approach seems appropriate. It is clear that greater control in each area will likely lead to reduction in criminal justice involvement.

Let's just say the government decided to hand over the justice system, but the aboriginal struggles in all other components remain. The 90% unemployment rate we face in most communities, the 2/3 ratio of apprehension of aboriginal children continues, the poor housing conditions we are forced to reside in either by location or just because of our race, the poor educational services we continue to receive, and definitely the biased and untrue history we are taught as children, will all continue to exist.

All these components if not considered or attempted to be corrected will continue to be the burden that continues to bring us back into the judicial system.

Meegwetch

Appendix 3

Manitoba Metis Federation

"Judicial Inquiries: Implications"

MANITOBA METIS FEDERATION
JUDICIAL INQUIRIES - IMPLICATIONS
Lawrence J. Barkwell
Prince Albert Sask.
March 30, 1990

I would like to thank Prairie Justice Research for inviting us to this Strategies Consultation. We will have a copy of the MMF Aboriginal Justice Inquiry presentation for all participants. The graphics on the wall are from the document, "Research and Analysis of the Impact of the Justice System on the Metis." As a result of our work to prepare for the Inquiry we have produced four other papers :

1) Devalued People: The Cycle Leading Into Demoralization and Victimization;
2) Early Law and Social Control Among the Metis;
3) Status of Metis Children Within the Child Welfare System;
4) Devalued People: The Status of the Metis in the Justice System.

The fourth paper will be published shortly in the Canadian Journal of Native Studies. The major conclusions we derived from this work are found on pages 73 to 78 of the Inquiry submission.

There were a number of other general results that had implications for others looking to do this work.

1) The MMF study gave many Metis people a research group that they could discuss their ideas with, and have their concerns included and expressed within a corporate report with the backing of the MMF Board of Directors. Many, because of their places of employment were reluctant to speak out individually.

2) Once we had the data we fed it back into the Metis constituecy at the Annual Assembly in November of 1989. This in turn produced further

discussion, analysis; it generated more data and raised even more questions.

3) In short, people became better informed and could educate themselves. They began to change their stategies, basically they gained more of a sense of urgency for these issues.

4) What had perhaps the greatest impact was the fact that the Public Access TV channels in all parts of the province were given a feed of the Aboriginal Justice Inquiry Proceedings. These were not televised just once - the tapes were repeated over and over. plus having initially been televised live, there was a certain amount of drama to the proceedings. This effectively broke the log jam of government control of information on justice issues. Also, people heard first hand what was said and were not relying on a synopsis or some reporters interpretation of the events. For perhaps the first time isolated communities at the level of the average person could hear the opinions of other average people in far away places. Previously only leaders with good travel budgets could have this experience. It is my belief that the observation of other individuals testifying encouraged more people to make presentations than would have otherwise been the case.

4) Over the duration of the hearings in Manitoba there was a perceptible shift in the emphasis of presentations - from initially talking about problems - Metis person after Metis person was comming forward with stories of their successes (as were other aboriginal people). Thus there was a sharing of achievements that heretofore had not been possible.

5) If effective self-government on justice issues requires a well informed caring and involved public, then the Aboriginal Justice Inquiry in Manitoba has certainly gone some way toward creating these conditions.

Implications for Self-Government and Self-Determinant Programming

The MMF findings clearly indicate that if programming is even culturally neutral, that is, delivered by aboriginal people to aboriginal people, with no

other special cultural components, and even without aboriginal control of the program standards - effectiveness and success rates will go up.

In MMF studies it was found that aboriginal Probation Officers have a 70% to 100% better success rate with aboriginal probationers. We found that the Dakota Ojibway Probation Service has the best success rates in the province - 92% success vs. 45% success rates in other service delivery units with high aboriginal caseloads.

We believe that there are a number of good reasons for this: (1) the programs are at least culturally neutral; (2) often the program can be delivered in the clients first language; (3) there is better advocacy for needed services, and better knowledge about the most appropriate services; (4) there is less willingness to "breach" on mere technicalities.

The Manitoba Fine Option Program, one which MMF views as being appropriately regionalized, and one which utilizes native carrier agencies has a failure rate of only 11% among aboriginal people who register compared to a failure rate of 13% among non-aborigianl participants.

Finally, if there is aboriginal self-determinant programming there will be economic benefits. The jobs and dollar expenditures will be within the aboriginal communities. Non-productive expenditures such as flying kids and adults to non-native staffed southern institutions will cease and the expenses of flying in itinerant white court parties and workers will cease. Service dollars will stay within the community.

For all of the above reasons we feel that it is important that while working for sectoral control of these services it is still worthwhile to work towards aboriginal staffing of the "mainstream" system since it has been proven that there are gains to be made there in the interim.

Appendix 4

Metis Association of Alberta

"Terms of Reference:
Task Force on the Criminal Justice System and
Its Impact on Indian and Metis People of Alberta"

Submitted by Judy Daniels, Metis Association of Alberta

TERMS OF REFERENCE

TASK FORCE ON THE CRIMINAL JUSTICE SYSTEM AND ITS IMPACT ON THE INDIAN AND METIS PEOPLE OF ALBERTA

A. GENERAL OBJECTIVE

The overall objective of the Task Force is to complete a review of the criminal justice system in Alberta as it relates to Indian and Metis people and to provide a report for the Solicitor General of Canada, the Attorney General of Alberta and the Solicitor General of Alberta, which identifies any problems and proposes solutions to ensure the Indian and Metis people receive fair, just and equitable treatment at all stages of the criminal justice process in Alberta.

B. SCOPE

1. The Task Force has the following responsibilities:

   a) to examine the criminal justice system in Alberta as it affects Indian and Metis people, in urban, rural, reserve and isolated settings with consideration to be given to any ways in which the system affects men and women differently;
   b) to identify the areas, if any, and consider the extent to which Indian and Metis people are treated differently from non-Indian and non-Metis people by the criminal justice system and to assess whether that different treatment is desirable or detrimental;
   c) to identify areas where, and the extent to which, Indian and Metis people should be treated differently from non-Indian and non-Metis people within the present criminal justice system;
   d) to consider alternative methods of dealing with Indian and Metis people involved with the criminal justice system that take into account Indian and Metis cultures, languages and special needs, and to recommend changes that can be equitably and readily achieved to the existing system that take into account culture, languages and special needs of Indian and Metis people, particularly Indian and Metis youth.

2. Any recommendations made by the Task Force will have regard for the present constitutional and legal framework in Canada and Alberta.

C. CONSULTATIONS

1. The Task Force will visit various locations in the Province to receive representations and submissions from interested Indian and Metis groups, organizations and associations.

2. These consultations are subject to the following terms and conditions:

   a) any group, organization or association wishing to make representations to the Task Force will normally be required to first submit a written brief, although the Task Force may receive oral presentations where there are extenuating circumstances;
   b) only groups, organizations and associations or individuals representing groups, organizations or associations may make representations to the Task Force;
   c) individuals, groups, organizations and associations making representations to the Task Force will be expected to respond to questions from members of the Task Force and to defend their representations accordingly.

3. The Task Force may develop and disseminate the information it considers necessary to ensure that those interested in making representations are informed of the establishment of the Task Force and of the objective, scope and content of the examination in which it is engaged.

4. The Task Force may invite representations from particular groups, organizations and associations whose participation is viewed by the Task Force as necessary or desirable because of their role in the delivery of criminal justice services.

D. AREAS OF EXAMINATION

The purview of each area of examination is as follows:

1. Research

   a) to review the findings and recommendations of Report #4 of the Kirby Board of Review to assess

      i) the extent to which the findings are still applicable,
      ii) the extent to which the recommendations were implemented, and,
      iii) the effect that the recommendations that were implemented have had on the Indian and Metis people involved with the criminal justice system in Alberta;

   b) to review recent reports respecting Indian and Metis people and the criminal justice system to determine to what extent the findings and recommendations of other reports apply to the Alberta situation including but not limited to

i) "Justice behind the Walls" (report of the Canadian Bar Association),
ii) "Locking Up Natives in Canada" (report of the Canadian Bar Association),
iii) "Aboriginal Peoples in Federal Corrections" (report of the Solicitor General of Canada),
iv) "R.C.M.P. Review into Native Policing in Alberta and Across Canada",
v) "Commission of Inquiry into Policing in Relation of the Blood Tribe", and,
vi) "Human Rights Commission Report" (Canada, 1989);

c) to review projects and programs implemented in other jurisdictions designed to address the needs and concerns of the Indian and Metis people involved in the criminal justice system.

2. Policing

a) to review the delivery of policing services to Indian and Metis communities and more specifically, regarding identifiable Indian and Metis communities, the Task Force will

i) examine the existing relationship between members of the Indian and Metis communities and the R.C.M.P.,
ii) examine the existing lines of communication between the R.C.M.P. and municipal police forces and Indian and Metis leaders to determine if existing police practices are responsive to Indian and Metis concerns, in particular the degree of Indian and Metis input into the identification of enforcement problems and the development of solutions,
iii) examine the existing level of police service in the Indian and Metis communities, the working relationships between the R.C.M.P. personnel and band special constables, and the effectiveness of special programs such as crime prevention initiatives and other forms of police/community involvement, and
iv) review the impact of the R.C.M.P. Special Constable program in relation to the original objectives of the program in light of current needs;

b) as it relates to Indian and Metis people in urban, rural and isolated settings, to review existing relationships between Indian and Metis people and municipal police forces and the R.C.M.P.;

c) to review and assess the current recruit training and other in-service training programs of the R.C.M.P. and municipal police forces in so far as this training relates to Indian and Metis cultural awareness and understanding;

d) to review and assess the recruitment and selection programs of the R.C.M.P. and municipal police forces that are designed to attract Indian and Metis people into the respective police forces;

e) to review the operational policies and practices of the R.C.M.P. and municipal police forces as they relate to the exercise of police powers as between Indian and Metis people and non-Indian and non-Metis people to determine if there are differences in treatment and whether those differences are desirable or detrimental.

3. Legal Aid

a) to determine the extent to which Indian and Metis people involved with the criminal justice system are aware of the availability of legal aid, how to obtain legal aid and the extent to which legal aid is presently provided following arrest, when appearing before a Justice of the Peace, or when first appearing in Court;

b) to identify the deficiencies that exist between the present system of legal aid respecting the needs of Indian and Metis people involved with the criminal justice system, and to determine how these deficiencies can be effectively addressed.

4. Courts

a) to examine the extent to which Indian and Metis people currently experience difficulty when appearing in Court as a result of their unique languages and cultures;

b) to determine whether and to what extent differences exist in sentencing practices as between Indian and Metis people and non-Indian and non-Metis people;

c) to examine existing levels of community input and to assess the feasibility of permitting a greater degree of participation by knowledgeable and respected Indian and Metis people in the sentencing process;

d) to assess the desirability and the extent to which Court sittings should be routinely and/or selectively held in identifiable Indian and Metis communities;

e) to determine whether alternatives to imprisonment that may be available to non-Indian and non-Metis people are also available to Indian and Metis people and whether there are any barriers to their having access to those programs;

f) to determine to what extent Indian and Metis people appearing in a court are presently provided with interpreters/translators and to determine if there are tangible benefits to permitting Indian and Metis people to use their own language in the courts;

g) to examine whether and the extent to which differences exist in the provision of bail, release on own recognizance or other forms of conditional release prior to trial or adjudication between Indian and Metis people and non-Indian and non-Metis people;

h) to determine the extent to which Indian and Metis people are imprisoned due specifically to their inability to pay a fine or use a fine option program.

5. Prosecution

to determine whether and the extent to which differences exist in the exercise of prosecutorial discretion between Indian and Metis people and non-Indian and non-Metis people.

6. Corrections

a) to examine the current admission rates/numbers, incarceration rates/numbers, average sentence and average length of time served in prison by Indian and Metis people in comparison to non-Indian and non-Metis people;

b) to examine existing policies and practices to determine whether there are any discrepancies between Indian and Metis and non-Indian and non-Metis people respecting

i) prisoner classification, case management techniques, release criteria and the availability of programs to Indian and Metis people while in custody, and
ii) the criteria for entry to community release programs and the rate of early release of Indian and Metis people;

c) to review existing correctional centre programs for both men and women to determine

i) the nature and content of programs for both young offenders and adult offenders,
ii) whether there is sufficient attention being given to the general needs and concerns Indian and Metis people including educational, personal development, drug and alcohol abuse and other programs of importance to the Indian and Metis people who are seeking to become more productive on release from prison, and
iii) whether there is sufficient attention being given to the special needs and concerns of Indian and Metis people in view of their cultural and spiritual heritage;

d) to determine the extent to which Indian and Metis elders and other respected Indian and Metis leaders, organizations and associations are presently involved in program development and delivery and in providing advice to senior correctional officials, and to determine how Indian and Metis people can become more involved in the correctional system in a productive and positive manner;

e) to examine the level of interest in Indian and Metis communities and among Indian and Metis leaders and organizations in taking on a more active role in the delivery of community based correctional programs and crime prevention initiatives.

7. Native Counselling Services of Alberta

a) to examine the effectiveness of the working relationships between Native Counselling Services of Alberta (NCSA) and the police community, the courts, the correctional systems (both federal and provincial), the Indian and Metis communities and individuals and the Indian and Metis leadership, organizations and associations;

b) to identify, to the extent possible, methods of improving services through the NCSA or through other organizations or service delivery options.

8. Other

a) to identify and describe other areas of concern that contribute directly to Indian and Metis people becoming involved in the criminal justice system in the first instance, and to recommend other steps that can be taken to more effectively address those areas of concern;

b) to identify areas of jurisdictional interaction or overlap between the federal and provincial governments that tend to impede actions and decisions within the corrections system to the detriment of Indian and Metis offenders;

c) to determine how the various departments of the Government of Alberta that provide services to Indian and Metis people can more effectively coordinate various services and programs to the benefit of the Indian and Metis people in such a manner as to reduce the number of Indian and Metis people coming into contact with the criminal justice system;

d) to review the cross cultural training provided to the judiciary, crown prosecutors, legal aid personnel and correctional personnel to determine if existing training is adequate and to make any recommendations necessary to ensure the development of comprehensive and effective programs;

e) to determine to what extent Indian and Metis people are presently employed in the various components of the criminal justice system in Alberta and to propose policy changes that would result in a higher level of employment;

f) to identify areas of concern as they relate to the special needs of Indian and Metis youth and women as they are affected by the areas under review.

9. Ongoing Process

to formulate a process for the ongoing monitoring and upgrading of programs and initiatives implemented pursuant to the recommendations of the Task Force.

Appendix 5

Indian Homemaker's Association of British Columbia

"Assimilation or Genocide?
Native Children and the Child Wefare System
in British Columbia"

INDIAN HOMEMAKERS'
Association of B.C.

ASSIMILATION OR GENOCIDE?

NATIVE CHILDREN AND THE CHILD WELFARE SYSTEM IN B.C.

Presented by Rose Charlie; President of the Indian Homemakers' Association of B.C. and Helen Jones, Vice-President of the Indian Homemakers' Association of B.C. to the Parliamentary Committee on Child Care.
March 27, 1986.

Prepared by Rose Charlie and Kathleen Jamieson.

201-640 W. Broadway Vancouver, B.C. V5Z 1G4 (604) 876-1468 or 876-0944

"While politicians and lawyers are arguing, native children are dying and native families lose both their children and their hope. The message is simple. Put native children first."

H. Philip Hepworth, 1980.

As President of the Indian Homemakers' Association of B.C., I thank this Committee for the opportunity to bring to the attention of the federal government and the Canadian people the urgent need to put a halt to the wholesale removal of Native children from their families and communities by the Ministry of Human Resources of this Province. This practice began in the 1950s when the federal government transferred responsibility for Indian child welfare to the provinces without any consultation with Native people. A major element of the system that is now established is that the province must apprehend Indian children before it has jurisdiction over them or can provide any services. As a result there are no preventative services and many apprehensions. Native families then become enmeshed in a legal process from which they seldom emerge unscarred.

Ever since the Indian Homemakers' Association was incorporated in 1969 as a non profit society that would serve as a voice for Native women and their families in B.C., we have been deeply concerned with this issue. We have acted as advocates for parents and children trapped in a system which they do not understand and in which their interests are not protected. It is our experience that many apprehensions are without due cause and unwarranted: they occur as a result of cultural biases, discrimination or misunderstanding. Indeed many parents go to the Ministry of Human Resources (MHR) for

help but they do not understand the rules, the concepts or the terminology and they may sign away their children into permanent care without knowing that they are doing so. We know about the despair of the families who have lost their children to this system and about the suffering of the children who are torn away from their families and put into foster homes or institutions. These are the children who grow up to fill penitentaries and skid rows and to die violent deaths.

This Association has compiled many documents and made many presentations on this issue before national and international bodies over the past 15 years yet we see little progress being made. Indeed statistics for 1984-85 supplied to us by the Ministry of Human Resources (MHR) and by the Department of Indian Affairs (DIA), though incomplete, show that the traffic in children of Native ancestry has not diminished and may in fact have increased since 1981. Although the province has sometimes argued that to keep such statistics would contravene provincial human rights legislation it probably does do so in order to be re-imbursed by the Department of Indian Affairs for the "in care" costs of some status Indian children.(1)

In 1955 before jurisdiction for Native children was transferred to the province it was estimated that less than 1 per cent of all children in care of B.C.'s welfare authority were children of Indian ancestry.(2) A comparison of 1981 and 1985 figures show the following situation today: For

1980-81 the MHR figure for all Native children described as status, nonstatus Indian and Metis was 2674 or 36.7 per cent of all children in care.(3) Yet only 3 to 4 per cent of the children in this province are likely to be Native children. 1984-85 statistics provided to us by MHR indicate that MHR has identified 2208 out of the total number of 7158 children "in care" or 30.8 per cent as "Indian".(4) But this figure does not include Metis or most non-status Indians as the 1981 figure does, and since the total number of people of Native ancestry is usually calculated to be between on half or equal to that of status Indians, then the total figure of all Native children "in care" in B.C. for 1984-85 is at least 46 per cent (30.8 + 15.4) of all children "in care" and likely very much higher.

The Department of Indian Affairs (DIA) transfers payments to the Province for the costs of only some of the status Indian children "in care".(5) for 1984-85 that number was 917 children. For these children the Department of Indian Affairs paid the Province $12.9 million or approximately $14,000 per child for the year. None of this money can be claimed by the province, however, until the Indian children are actually apprehended. Since no monies can be transferred to the Province by DIA for preventative measures or for assessments this practice, in our view, clearly constitutes an inducement to the Province to first apprehend and ask questions later.(6) A review of national statistics by Philip Hepworth in his 1980 book, "Foster Care and Adoption in Canada" showed that once Native children come into the

care of the courts they are less likely than other children to be returned to the care of their parents.(7) Although fewer Native children are adopted than other children (8) they remain in institutions or are shunted from one foster home to another instead of being returned to their families. The social costs are clearly very high. If we extrapolate from the financial cost of $14,000 per child that DIA transfers to the province, the total per annum cost for all Native children "in care" in this province is possilby around $50 million. We cannot believe that such expenditures have gone unremarked or that the whole system has unintended consequences. We believe that this system falls within the U.N. definition of genocide.(9)

We cannot deal here with the myriad of causes - political, historical, economic, social and cultural - that have contributed to creating this terrible problem. We do, however. believe that the recent B.C. government cutbacks in social programs have aggravated an already very bad situation. According to a Brief to the Task Force on Legal Services prepared in 1984 by the Legal Services Society of B.C., a 1982 reduction of funds for legal aid services to the Legal Services Society meant that there were "virtually no services in Family Court and services only for urgent matters in Supreme Court".(10) The Brief also points out that in September 1983 Family Court coverage was reduced even further;(11) that in addition "the legal aid tariff is now so low that some communities have no lawyers willing to do

family legal aid";(12) that in some areas there is no service available.(13) The quality of mercy available to Native families caught in the web of the legal system is clearly very strained indeed.

According to another brief "A Promise Broken" prepared in 1985 by the B.C, Government Employees Union the number of social workers in the province was reduced by 12 per cent since 1983 although demand had increased and consequently some social workers have as many as 400 cases.(14) Social workers therefore, whether they have cultural biases or not, and some undoubtedly do, have to make decisions under enormous pressure. It seems likely that when they have any suspicion at all that a child may be at risk and given the lack of time or incentive to investigate and the lack of family support services and other social services that they will apprehend the child. If one also considers the high unemployment rate in B.C., that the number of people on social assistance almost doubled between 1981 and 1983, (15) and that most native people are locked in at the bottom of the pyramid of inequality, the dimensions of the problem become inescapably clear.

We believe that the situation of Native children in B.C. is a national tragedy. We do not believe that it will go away by itself and we cannot wait for it to be resolved by Indian government. In any case the status Indian population is now being increased as a result of the 1985 amendments to the Indian Act by about one third.(16) Many of these people will

not have band membership or affiliation with any Indian tribal group. Moreover about one third of all status Indians in B.C. presently live off reserve and there are as well an unspecified number of other people of native ancestry who will not come under Indian government but who are also at risk. There is no simple solution and there can be no single solution. But piecemeal agreements with bands or tribal groups such as are being made in other provinces or tripartite arrangements with the province do not in our view provide sufficient protection for all Native children.

As a partial remedy to this vast problem we urge that this Committee recommend the creation of federal umbrella legislation that will encompass the broad principles of the U.S Indian Child Welfare Act of 1978 and adapt the specifics to the Canadian situation (see appendix). It is important in so doing that the federal and provincial governments set aside the jurisdictional disputes that have prevented any progress from occurring in this area for so long.

In his 1983 book "Native Children and the Child Welfare System", Patrick Johnston considers the various remedial options that are available and notes that "the U.S. experience with federal child welfare legislation is of significance to Canada both symbolically and practically. The Act is a concrete example of the Americans' efforts to deal with a problem that is just as real in Canada."(17)

The U.S. Act explicitly recognizes the political, social and cultural nature of the problem and then sets out to address it by giving control over child welfare to properly trained

Indian agencies: the Act provides for funding for the training of Indian social workers and for preventative programs that recognize Indian cultural and spiritual values. It specifically recognizes the prior rights in matters of child custody of the extended family and the Indian tribal group. This system appears to be working well in the U.S. and indeed provides more protection for children in that those Native people who wish to report suspected child neglect or abuse need no longer fear that in so doing they are parting children from their families forever. Surely Canada which has always prided itself on having treated its Native people better than the U.S. can do no less than to bring in similar legislation?

At the community level we want to urge that in recognition of the role that alcohol and drug abuse play in the breakdown of the Native family that funding be made available for family unit treatment centres where in a sheltered environment a whole family can be helped both to reconstitute itself as a family and to reintegrated into the community. Surely this is a better way to spend these millions of dollars?

But as Patrick Johnston pointed out in 1983, in the final analysis this matter is "not simply a child welfare matter, it is also a political issue. It has as much to do with federal-provincial relations and the division of power between both these levels of Government and Native Peoples. Often in such tussles for pwoer certain individuals suffer as a result. In this case, it happens to be that segment of the

population with the least amount of power and no voice children, who also happen to be Native."(18)

Our Native children are the innocent prisoners of this system. Our native children, Members of the Committee, are Canada's political prisoners.

FOOTNOTES

1. The provincial government is somewhat reluctant to give specific information on this issue. Some of this information was, however, provided by the Family Services Branch of MHR in March of 1986.
2. Patrick Johnston, Native Children and the Child Welfare System, (Toronto:Canadian Council on Social Develoment, 1983), p. 23.
3. Ibid., p.27.
4. The explanation given by a spokesperson for MHR, March 1986, was that the designation of Indian is presently extended to children whose mother or both of whose parents are Indians.
5. DIA regards only reserve residents and the child of a parent who has not been self-sufficient for one year as being their financial responsibilty in child welfare cases.
6. This informations was provided by the Social Development section of DIA, Vancouver, March 1986.
7. H. Philip Hepworth, Foster Care and Adoption in Canada, (Ottawa:Canadian Council on Social Development, 1980.), p.118.
8. Ibid., p. 118-120.
9. Genocide is defined in the UN Convention on the Prevention and Punishment of the Crime of Genocide: "Article II. In the present Convention, genocide means any of the following acts committed with intent. to destroy, in whole or in part, a natinal, ethnical, children of the group to another group."
10. Legal Services Society, Brief to the Task Force on Public Legal Services, Vancouver, 1984), p.8.
11. Ibid., p.9.
12. Ibid., p.11.
13. Ibid., p.8,10.
14. British Columbia Government Employees' Union, Summary of a "Promise Broken", 1985. p.2.
15. Legal Services Society, op.cit., p.
16. DIA press releases of July 1985 estimated that about 80,000 amendments to the Indian Act.
17. Patrick Johnston, op.cit., p.90.
18. Ibid., p.130.

Appendix 6

ISKWEW

"Brief to the Research Consultation on Canada's Aboriginal People"

BRIEF TO THE "RESEARCH CONSULTATION" TEAM ON THE OVERINCARCERATION OF CANADA'S ABORIGINAL PEOPLE

By Adelle Ratt

The over-incarceration of Canada's aboriginal people is a reflection of the overall oppression of Indigenous people in North America. This problem cannot be seperated from other issues because it is a result of problems faced by native people in this society. We believe that this problem will not eliminated until Aboriginal People have their freedom. Self-determination and self-government are basically fancy words for freedom. What native people want is to control their lives in every way. You might argue that this is a free country and we all have the right to do as we chose. Wrong. Native people are denied even basic human rights in this country. It is evident when we look at the situation in northern Saskatchewan for example, where native people have become an industry for non-native employment. Without us there would be a lot of unemployed civil servants.

This denial of our freedom often begins when we are very small children and we get taken away from our parents and our communities. Our identity, language, our very being is stolen from us and we become trapped in a system that alienates and destroys us. Is it any wonder that we have the highest rates of suicide both inside and out of the institutions of society which appear to be built especially for us? Right from the beginning we are denied our freedom because the course of our life has been determined for us.

We felt it was important to talk about this especially if we are to look at positive solutions in the future.

Iskwew, whom I am here representing, works with battered women in and around the community of Prince Albert. In our work we offer a support group and informational workshops twice a month to the women at Pinegrove. We also offer support for them once they are released.

Our presentation, therefore, will concentrate on the problems of women in prison.

In discussing the over-incarceration of Native women in Canadian Prisons we at Iskwew came to the conclusion that most of these women should not be in jail. We came to this conclusion because most of the women we came into contact with at Pinegrove Correctional Centre are impoverished. Their crimes are crimes of survival. Most of the women in prison in Saskatchewan are victims -victims of poverty; victims of family violence; victims of racism; victims of unemployment; victims of oppression.

Essentially we see the incarceration of native women as "punishing the victim", but not only are we punishing women - we are punishing their children as well. When a woman goes to jail - her children go to a foster home if the immediate family cannot take them. Many times native children are put in non-native foster homes. The

abuse inflicted on these children from tearing them away from their mother to actual physical and emotional abuse in the foster homes often leads to problems in their adult lives that often end up in incarceration.

This cycle must be broken.

The injustices native people face once in the prison systems are too many to cite -in this short presentation- but should not be understated. One concern that we have about conducting a "research consultation" on native pople who are incarcerated is the fact that the "target population", the inmates, are not contacted or do not have input into any recommendation for changes within prisons.

I would like to read an editorial by an inmate at Pinegrove who worked on the Literary Newspaper from there, that reflects how neglected they really are:

"Pine Times Productions - Patti Penny"

We have a list of recommendations or strategies that we feel can help the process of change in the society and decrease the high rate of native incarceration.

1. Immediate implementation of a Justice Inquiry in Saskatchewan done by native people to look into ways native communities can begin to develop their own justice systems and alternative justice programs.

2. Implementation of new preventative programs and support for existing programs. (for example: the National Native Women's Caucus On Women In Prisons, etc.)

3. Immediate implementation of Correction Centre staff training in:

(a) Understanding of native culture to develop a sensitivity to the unique needs of native people (i.e.: elders, sweat lodge, etc.)

(b) Effects of alcohol and drug abuse and at the very least an understanding of the symptoms of withdrawl.

(c) in Women's prisons specifically some training on related women's issues. (i.e.: how women are abused in society by inequalities, etc.) This can be implemented as a part of the rehabilitation programming in an effort to empower women and can contribute to women having more confidence to help themselves once released.

4. There should be more equal native representation of staff in the entire justice and corrections system.

5. Because the present system is obviously not working that we not look at building bigger and better jails as a solution (because it is not) -

but we need to support at all levels Indigenous Peoples' rights and efforts to self-determination. (i.e.: support for inmates committees, etc.)

In conclusion, we hope that this is not just a "consultation" again, that indeed some positive steps will be taken to start to deal with these problems.

Appendix 7

Pine Grove Inmate Committee

Presentation to the Research Consultation
on the Over-Incarceration of
Canada's Aboriginal Peoples"

MARCH 28,1990

PINE GROVE INMATE COMMITTEE
c/o PINE GROVE CORRECTIONAL CENTER
BOX 3003
PRINCE ALBERT,SASK.
S6V-6G1

ADELE RATT
c/o PRINCE ALBERT COMMUNITY CLINIC
CO-OPERATIVE HEALTH CENTER
110 8th STREET EAST
S6V-0V7

DEAR ADELE RATT;

AS MEMBERS OF THE INMATE COMMITTEE IN PINE GROVE, WE WOULD LIKE TO EXTEND OUR SUPPORT TO YOU AT THIS TIME. BECAUSE WE CANNOT ATTEND THE UPCOMING CONFERENCE;WE HOPE THIS LETTER WILL BE SUFFICIENT TO REPRESENT THE INMATES OF PINE GROVE.

WE BELIEVE THAT THE MAIN CONCERN TO BE ADDRESSED AT THIS TIME ABOUT SERVING A SENTENCE IN PINE GROVE CORRECTIONAL CENTER IS A LACK OF EDUCATION. THERE IS NO OPPORTUNITY WITHIN THE CENTER TO ACHIEVE ANY TYPE OF UPGRADING OR VOCATIONAL AND ACADEMIC COURSES. WE FEEL THAT AN EDUCATION IS ESSENTIAL IN BETTERING ONESELF AND TO BE ABLE TO LIVE A STABLE AND PRODUCTIVE LIFE-STYLE IN THE COMMUNITY.

A SUBSTANTIAL NUMBER OF NATIVE WOMEN SERVING SENTENCES IN PINE GROVE HAVE A LIMITED EDUCATION BY ANY STANDARD, AND THEY SHOULD BE ALLOWED THE OPPORTUNITY OF GETTING AN EDUCATION SO THAT THEY CAN EXPERIENCE SOME SORT OF PERSONAL ACHIEVEMENT AS WELL AS CONTRIBUTE TO THEIR COMMUNITIES.

OTHER PERPLEXITIES THAT WE SEE AS CONTRIBUTING FACTORS IN NATIVE WOMEN ENDING UP IN PINE GROVE ARE:

1) POVERTY
2) LACK OF EDUCATION
3) NOT ENOUGH SUBSTANCE ABUSE TREATMENT CENTERS AND COUNSELLING OUTLETS
4) NO PROPER REPRESENTATION DURING THE COURT PROCEEDINGS
5) A SUBTLE PREJUDICE ALREADY BUILT INTO THE COMMUNITY AS WELL AS THE COURTS
6) LACK OF HALF-WAY HOUSES ONE MAY ATTEND UPON RELEASE

IN ADDITION, WE FEEL THAT THERE SHOULD BE SOME SORT OF SET ALTERNATIVES FOR THE WOMEN DOING SHORT SENTENCES OR TRYING TO PAY OFF A FINE. IS IT NOT POSSIBLE TO HAVE A FINE OPTION PROGRAM TO MEET AND FULFILL IN THE COMMUNITY INSTEAD OF BEING PROCESSED THROUGH A CORRECTIONAL FACILITY? IS IT NOT FEASIBLE TO BE SENTENCED TO A PERIOD OF TIME INA TREATMENT CENTER IN THE COMMUNITY INSTEAD OF COMING TO PINE GROVE WHERE COUNSELLING AND THERAPY ARE SOMEWHAT SPORADIC AND NOT THAT INTENSE?

ANOTHER POINT OF GREAT IMPORTANCE IS THE FACT THAT THERE IS NO COURT WORKER SYSTEM WITHIN THE PROVINCE. MANY NATIVE WOMEN ARE NOT FULLY AWARE OF THE IMPLICATIONS OF THEIR SPECIFIC CHARGES AND REMAIN SILENT THROUGHOUT THEIR COURT PROCEEDING. THE SILENCE SEEMS TO GENERATE NOT ONLY FROM A MISUNDERSTANDING OF WHAT'S ACTUALLY HAPPENING TO THEM, BUT ALSO FROM THEIR HERITAGE AS WELL. WE FEEL THAT IT IS ESSENTIAL TO HAVE A COURT WORKER'S SYSTEM SO THAT EACH INDIVIDUAL IS AWARE OF HER RIGHTS AND OPTIONS AND CAN SO EXERCISE THEM. THE LEVEL OF COMMUNICATION WOULD BE EVEN GREATER IF THE COURT WORKERS WERE OF ABORIGINAL DESCENT.

WE SINCERELY HOPE THAT THE ABOVE MENTIONED CONCERNS WILL BE ADDRESSED BY YOU ON OUR BEHALF AT THE PRESENTATION. ONE THING WE ALL SEEM TO AGREE UPON IS THAT THE PRESENT SYSTEM IS NOT WORKING AND THAT PERSONAL PROGRESS IS AT A STANDSTILL.

SINCERELY,

PINEGROVE INMATE COMMITTEE

LANA AUBICHON INMATE CHAIRPERSON

CAROLYN TURNER INMATE SECRETARY

SANDRA PHILIPS AREA REPRESENTATIVE

CINDY CARON AREA REPRESENTATIVE

DEBRA TAYPOTAT AREA REPRESENTATIVE

MYRNA BRASS AREA REPRESENTATIVE

SHEILA BAILEY AREA REPRESENTATIVE / RECREATION

Appendix 8

Prince Albert Daily Herald

"Saskatchewan Lagging Behind in Setting Up Native Justice System"

Saskatchewan lagging behind in setting up native justice systems

By CONNIE SAMPSON
of the Herald

Saskatchewan is lagging behind in setting up native criminal justice systems and Annette Neustaedter, director of Pine Grove Correctional Centre for women, wonders why, when models exist in other provinces around us.

ANNETTE NEUSTAEDTER

Neustaedter recently took part in a consultation in Prince Albert, which examined the idea of setting up native police, court and jail systems in Saskatchewan.

Taking part were police, jail, university and court officials from the Prairie provinces.

Manitoba has had a native police force since 1978, operated by the Dakota Ojibway Tribal Council. The 23-man force polices eight reserves in southwestern Manitoba with a headquarters in Brandon, Man.

The Dakota Ojibway Police Department handles 92 per cent of the incidents occurring on the reserves. The advantage the force feels it has over RCMP policing is that the native police officers live on the reserves and speak the languages of the people, according to Deputy Chief Warren Fontaine.

All of the officers are Manitoba qualified peace officers and can act off the reserves if necessary. They are trained at the RCMP training depot in Regina and take further training at the Canadian Police College in Ottawa, Police Chief Frank McKay said.

The experience of the Split Lake, Man., reserve, which claims a zero crime rate, is worthy of attention, says Ron Schriml, director of the University of Regina School of Human Justice in Prince Albert.

Elders Martha Spence and Allison Kitchekeesik from the reserve, 700 kilometres north of Winnipeg, credit the strength of the elders and the Anglican church coupled with aggressive education for the success.

Native constables, elected by the people and paid $150 a month, police the reserve and offenders must face the chief and council to explain their actions.

The elders and the Anglican church command obedience and respect on the reserve, Spence and Kitchekeesik said.

Parents are assisted but they are also held responsible for their childrens' behavior. The elders have insisted parents censor children's television viewing to screen sex and violence.

A strong parent-teacher association and workshops and seminars on drug abuse begin early to combat drug abuse which is just starting to reach the reserve. Alcohol is banned on the reserve.

A southeastern native community has purchased a Canadian Forces Base at Gypsumville, Man., 100 kilometres east of Winnipeg. A rehabilitation centre for natives in conflict with the law is being developed. Reconciliation with the victim of the crime and reconciliation with the offender's community will be stressed.

Provincial court judge Peter Deilschneider asked why reserves do not initiate programs to supervise people from their reserves. "In many cases, I am free to put a man in custody of his elder rather than in jail," Deilschneider said but nothing is in place in Saskatchewan.

Rose Charlie, of the Indian Homemakers Association in Vancouver says her people can and do advocate for their neighbours in this manner.

In an interview, Sam Corrigan of Brandon University summed up the situation: "The funding is available for justice programs geared to natives but the programs have to start with the natives themselves. They have to see the need and the bulk of the adults on any reserve have to want it for native justice programs to work."

Appendix 9

Bruce Spence

"Over-Incarceration of Aboriginal People Examined"

Over-incarceration of aboriginal people examined

by *Bruce Spence*
Research Assistant,
Prairie Justice Research

According to Dr. Jim Harding of Prairie Justice Research, the criminal justice system in Saskatchewan is sentencing aboriginal offenders to jail terms at an alarming rate and the trend is related to the question of self-government and self-determination. Sixty per cent of male inmates in Saskatchewan jails and 90 per cent of incarcerated women are of aboriginal ancestry. Most are treaty Indian.

At the end of March, Prairie Justice Research held a strenuous two and a half day consultation meeting in Prince Albert, a city where five Saskatchewan correctional centers are located. Thirty-one participants from as far away as Split Lake, Manitoba and Vancouver examined the relationship between aboriginal self-government and disproportionate incarceration levels. The focus was on strategies to reduce the over-incarceration of Canada's aboriginal peoples.

Consultation participants included band councillors and police chiefs from Manitoba reserves; a Saskatchewan Court of Queen's Bench judge; a law student articling with the Saskatchewan Court of Appel; a Corrections Canada official; legal aid lawyers; university researchers; members of the Prince Albert aboriginal community; and representatives of the Manitoba Metis Federation, Indian Homemakers Association of British Columbia, the Federation of Saskatchewan Indian Nations, and the Metis Association of Alberta.

"The Marshall and Manitoba inquiries have refocussed public concern on the way prejudice and discrimination in the criminal justice system contributes to the high rates of incarceration of aboriginal people," Harding said in an interview.

Participants presented their views on aboriginal self-determination and self-government, or the lack of it, and implications these issues had for reforming the criminal justice system; the impact of the judicial inquiries in Nova Scotia and Manitoba; and in a public panel discussion, alternative justice systems being implemented outside Saskatchewan.

The alternatives presented were an autonomous police department that has provincial authority but is controlled by the seven-band Kakota-Ojibway Tribal Council, a reserve-based system with elected police officers and a powerful elders council, and a "culturally appropriate" facility located in a former Canadian Forces radar base that is meant to be an alternative to the provincial corrections system.

In the public forum, Judge Peter Deilschneider of the Saskatchewan Court of Queen's Bench asked why similar alternatives were not available in his jurisdiction. He was told that aboriginal leadership here did not see justice issues or de-carceration as a priority and that there was a reluctance to act on these issues by the provincial government.

Alternative justice programs and new research directions were on the final days's agenda, but the consultation did not come up with an actual strategy for cutting down the number of aboriginal people in the wrong end of the criminal justice system.

"There was a clear consensus that moves towards aboriginal self-government are essential to any strategy - no one disputed that," Dr. Harding said later. "There was no consensus though on whether an inquiry such as the one in Manitoba or if money for new research would strengthen the case for self-government."

Harding said consultation participants from outside Saskatchewan may not have gained much from the meeting, but they brought new ideas with them that could be used here. He noted that evidence shows that incarceration levels elsewhere are being reduced as a result of aboriginal people controlling their own programs, and that higher incarceration levels in Saskatchewan could indicate a lack of control of programs by aboriginal people here.

"The implications of self-government as a strategy for de-carceration or for reforming the dominant criminal justice system has a real potential for impact on the corrections industry," Harding concluded.

Appendix 10

"Consultation Invitation List"

CONSULTATION INVITATION LIST

Recieved Invitations

BRADFORD MORSE
Common Law Section
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(613) 231-4903

DONALD PURICH
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PROFESSOR MICHAEL JACKSON
Faculty of Law
University of British Columbia
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Vancouver, BC V6T 2B2

NOBLE SHANKS
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Saskatoon, SK S7H OS5
(306) 343-8285

DALE PELLETIER
Saskatchewan Coalition Against Racism
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HAROLD FINKLER
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University Affairs
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